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09/559,478	04/27/2000	Richard A. Simon	81020F-P	1867

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EXAMINER

STORK, KYLE R

ART UNIT	PAPER NUMBER
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2178

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/559,478

Applicant(s)

SIMON, RICHARD A.

Examiner

Kyle R. Stork

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This non-final office action is in response to the request for continued examination filed 6 May 2005.
2. Claims 1-2 and 4-27 are pending. Claims 1, 16, 22-25, and 27 are independent claims. The rejection of claims 1-2 and 4-27 under 35 U.S.C. 103 have been withdrawn as necessitated by the amendment filed 31 March 2005.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 9-11, 17-18, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. The term "little or no" in claim 9 is a relative term which renders the claim indefinite. The term "little or no" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The examiner is not able to determine how "little" an improvement must be for the layout to be selected.

Claims 10-11 are rejected based upon their dependence upon a rejected base claim.
6. Claims 17-18 and 21 recite the limitation "said computer" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is unclear whether "said

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computer” is meant to refer to “first computer” as specified in claim 16, line 3, and referred to as “said first computer,” in claim 19, line 2.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-2, 4, 6-7, 9, 16, 22-25, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Long et al. (US 2002/0095439, filed 20 February 1998, hereafter Long).

As per independent claim 1, Long discloses a method of organizing a plurality of digital images in a predetermined page format utilizing a software program running on a computer, comprising the steps of:

- Grouping the plurality of digital images into a plurality of different page layouts, wherein any one of the plurality of images may be located in any position in the plurality of page layouts, each of the page layouts capable of being printed and having white space between the plurality of digital images (paragraph 0040: Here, the images are randomly placed into the layout pattern; paragraph 0044 and 0105: Here, a printer is disclosed)

- Analyzing each of the different page layouts and spatially balancing the white space between the plurality of digital page layouts (paragraphs 0045-0052: Here, the “vertical space distribution rule,” and the “horizontal space distribution rule,” adjust the layout pattern based upon spatial balancing of white space)
- Selecting the page layout based on the amount of white space determined for each of the plurality of different page layouts and the spatial balance of the white space between the plurality of digital images (paragraphs 0045-0053: Here, the layout is adjusted according to rules, including rules based upon spatial balance of white space both horizontally and vertically)

As per dependent claim 2, Long discloses a method further comprising placing the plurality of digital images in the selected page layout (paragraphs 0036-0037: Here, the images are arranged on the page. The selected page layout (adjust page layout) involves the rearranging of images in accordance with the rules).

As per dependent claim 4, Long discloses a method wherein the analyzing the different page layouts comprises scoring each of the different page layouts (paragraph 0055-0060).

As per dependent claim 6, Long discloses the method wherein the amount of white space is minimized by using stochastic algorithms (paragraphs 0036-0063: Here, an initial layout is selected at random (stochastic)).

As per dependent claim 7, Long discloses the method wherein the different page layout includes placing images in a non-overlapping pattern (paragraph 0047: Here, no overlapping on a page is allowed).

As per dependent claim 9, Long discloses the method wherein analyzing of different page layouts comprises an iteration of comparing two different page layouts and selecting the best page layout until little or no further improvement in scoring is obtained (Figure 11).

As per independent claim 16, the applicant discloses the limitations similar to those in claim 1. Long further discloses a first computer for composing a plurality of digital images on a page (paragraph 0044). Claim 16 is similarly rejected under Long.

As per independent claim 22, the applicant discloses the limitations similar to those in claim 1. Claim 22 is similarly rejected under Long.

As per independent claim 23, the applicant discloses the limitations similar to those in claim 1. Long further discloses providing a plurality of digital images and selecting a number of digital images for placement (paragraph 0066: Here, a plurality of images are selected for placement). Claim 23 is similarly rejected under Long.

As per independent claim 24, the applicant discloses the limitations similar to those in claim 1. Long further discloses identifying an area to be void of digital images (paragraphs 0065-0067: Here, non-printable areas are areas which are to be void of digital images). Claim 24 is similarly rejected under Long.

As per dependent claim 25, the applicant discloses the limitations similar to those in claim 1. Long further discloses identifying at least one digital image and the location of the at least one predetermined image location (paragraph 0066). Claim 25 is similarly rejected under Long.

As per independent claim 27, the applicant discloses the limitations similar to those in claims 25. Claim 25 is similarly rejected under Long.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5, 8, 10-12, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long and further in view of Rzepkowski et al. (US 6741270, filed 19 January 2000, hereafter Rzepkowski).

As per dependent claim 5, Long discloses the limitations similar to those in claim 1, and the same rejection is incorporated herein. Long fails to specifically disclose scaling digital images by different amounts. However, Rzepkowski discloses scaling digital images by different amounts (Figure 7: Here, an image can be scaled proportional to the original image dimensions or by a different amount scaled to fit within a specified height and width).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's method with Rzepkowski's method, since it would have allowed a user to fit an image into a fixed-area region (Rzepkowski: column 2, lines 5-10).

As per dependent claim 8, Long discloses the limitations similar to those in claim 1, and the same rejection is incorporated herein. Long fails to specifically disclose scaling digital images such that they fit within the page format. However, Rzepkowski discloses scaling digital images such that they fit within the page format (Figure 7; column 2, lines 35-50).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's method with Rzepkowski's method, since it would have allowed a user to fit an image into a fixed-area region (Rzepkowski: column 2, lines 5-10).

As per dependent claim 10, Long discloses the limitations similar to those in claim 9, and the same rejection is incorporated herein. Long fails to specifically disclose scaling an image. However, Rzepkowski discloses scaling an image (Figure 7).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's method with Rzepkowski's method, since it would have allowed a user to fit an image into a fixed-area region (Rzepkowski: column 2, lines 5-10).

As per dependent claim 11, Long discloses the limitations similar to those in claim 9, and the same rejection is incorporated herein. Long fails to specifically disclose rotating an image. However, Rzepkowski discloses image rotation (Figure 6, item 534; column 9, lines 20-32).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's method with Rzepkowski's method, since

it would have allowed a user to create an aesthetically pleasing document (Long: paragraph 0023).

As per dependent claim 12, Long and Rzepkowski disclose the limitations similar to those in claim 8, and the same rejection is incorporated herein. Rzepkowski further discloses the method wherein the scaling comprises reducing the size of the digital images (Figure 7: Here, the scaling can be either a reduction or enlargement in size).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's method with Rzepkowski's method, since it would have allowed a user to fit an image into a fixed-area region (Rzepkowski: column 2, lines 5-10).

As per dependent claim 14, Long and Rzepkowski disclose the limitations similar to those in claim 12, and the same rejection is incorporated herein. Long further discloses the method wherein the white space is determined vertically between adjacent images in the page layouts (paragraph 0048).

As per dependent claim 14, Long and Rzepkowski disclose the limitations similar to those in claim 12, and the same rejection is incorporated herein. Long further discloses the method wherein the white space is determined horizontally between adjacent images in the page layouts (paragraph 0049).

11. Claims 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long and further in view of Arledge, Jr. et al. (US 6535294, filed 23 June 1998, hereafter Arledge).

As per dependent claim 17, Long discloses the limitations similar to those in claim 16, and the same rejection is incorporated herein. Long fails to specifically disclose the system wherein the computer can be accessed remotely over a communication network. However, Arledge discloses the system wherein the computer can be accessed remotely over a communication network (column 4, line 65- column 5, line 3).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's system with Arledge's system, since it would have allowed a user to create a customized product (Arledge: column 5, lines 17-26).

As per dependent claim 18, Long and Arledge disclose the limitations similar to those in claim 17, and the same rejection is incorporated herein. Arledge further discloses the system wherein the computer is accessed by a second computer (column 3, lines 18-38).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long and Arledge's system with Arledge's system, since it would have allowed a user at a remote computer to create a customized product over a network (Arledge: column 5, lines 17-26).

As per dependent claim 19, Long and Arledge disclose the limitations similar to those in claim 18, and the same rejection is incorporated herein. Arledge further discloses the system wherein the software program is run on the first computer (column 5, lines 17-49).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long and Arledge's system with Arledge's system, since it would have allowed a user at a remote computer to create a customized product over a network (Arledge: column 5, lines 17-26).

As per dependent claim 20, Long and Arledge disclose the limitations similar to those in claim 18, and the same rejection is incorporated herein. Arledge further discloses the system wherein the second computer is a personal computer of a customer (column 7, lines 30-50: Here, a client computer is a personal computer of a customer).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long and Arledge's system with Arledge's system, since it would have allowed a user at a remote computer to create a customized product over a network (Arledge: column 5, lines 17-26).

As per dependent claim 21, Long and Arledge disclose the limitations similar to those in claim 17, and the same rejection is incorporated herein. Arledge further discloses the system wherein the computer is a retail kiosk (column 2, lines 42-54).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long and Arledge's system with Arledge's system, since it would have allowed a user at a remote computer to create a customized product over a network (Arledge: column 5, lines 17-26).

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12. Claims 13 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long and further in view of Bolnick et al. (US 6043817, filed 30 September 1997, hereafter Bolnick).

As per dependent claim 13, Long discloses the limitations similar to those in claim 1, and the same rejection is incorporated herein. Long fails to specifically disclose providing a border on a page. However, Bolnick discloses providing a border (column 10, lines 47-54).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's method with Bolnick's method, since it would have allowed a user to position images within the display region.

As per dependent claim 26, Long discloses the limitations similar to those in claim 25, and the same rejection is incorporated herein. Long fails to specifically disclose the user request of another page layout. However, Bolnick discloses a user request for a modified page layout (column 5, lines 7-25).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's method with Bolnick's method, since it would have allowed a user to modify a layout to fit user preferences.

Response to Arguments

13. Applicant's arguments with respect to claims 1-2 and 4-27 have been considered but are moot in view of the new ground(s) of rejection.

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As detailed above, the Long, Rzepkowski, Arledge, and Bolnick references have been used to address the applicant's arguments.

Conclusion

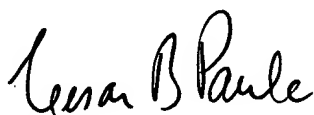
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kyle R. Stork whose telephone number is (571) 272-4130. The examiner can normally be reached on Monday-Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kyle Stork
Patent Examiner
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PRIMARY EXAMINER